IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 561 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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A ARUNAGIRI C/O GUJARAT MAZDOOR PANCHAYAT - Appellant(s)
Versus
GENERAL MANAGER & 1 - Defendant(s)

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Appearance :
SHRIKAR H BHATT for Appellant(s) : 1,
DELETED for Defendant(s) : 1,
NOTICE SERVED for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 14/06/2007

ORAL JUDGMENT

1. By way of this appeal under Section 30 of the Workmen Compensation Act, the appellant – original claimant has challenged the legality and

validity of the judgment and order dated 19.02.1991 passed by the learned Commissioner for Workmen Compensation, Ahmedabad dismissing the Workmen Compensation Application No. 68 of 1985 on the ground of delay.

2. It is required to be noted that the claim of original claimant before the learned Commissioner for Workmen Compensation was of Rs. 14,700/- (Rupees Fourteen Thousand and Seven Hundred only) and even the respondent No.2 herein opponent No.2 deposited Rs.10,080/- (Rupees Ten Thousand and Eighty only) with the learned Commissioner for Workmen Compensation towards compensation payable to the appellant. However, as the appellant herein was of the opinion that he is entitled to Rs. 14,700/- (Rupees Fourteen Thousand and Seven Hundred only), he did not accept the same and therefore, the same was deposited with the learned Commissioner for Workmen Compensation. It appears from the record that pursuant to the order dated 30.10.1991 passed by the learned Single Judge in Civil Application No. 1958 of 1991, the learned Commissioner for Workmen Compensation was directed to deposit the aforesaid amount of Rs. 10,080/- (Rupees Ten Thousand and

Eighty only) in the Fixed Deposit and that the applicant was permitted to withdraw /collect the interest on the said amount. Thus it is reported that the aforesaid amount is lying with the learned Commissioner for Workmen Compensation by way of Fixed Deposit.

3. Shri Shrikar Bhatt, learned Advocate appearing on behalf of the appellant has submitted that to the best knowledge of his client, even respondent No.2 is not in existence and to proceed further with the appeal against the respondent No.2 would be exercising in futility. Therefore, the appellant is ready and willing to accept the amount of Rs. 10,080/- (Rupees Ten Thousand and Eighty only) towards compensation as deposited by opponent No.2 herein and restricts his claim to that extent and that he may be permitted to withdraw the said amount lying with the learned Commissioner for Workmen Compensation by way of Fixed Deposit.

4. Under the circumstances, the present appeal is disposed of by holding that the appellant is entitled to Rs.10,080/- (Rupees Ten Thousand and Eighty only) by way of compensation which is already

deposited by opponent No.2 with the learned Commissioner for Workmen Compensation and accordingly learned Commissioner for Workmen Compensation, Ahmedabad is directed to pay the said amount to the appellant by Account Payee Cheque on proper identification and verification and for that purpose, it will be open for the learned Commissioner for Workmen Compensation to withdraw Fixed Deposit prematurely. Aforesaid exercise is to be done within a period of 3(three) months from the date of receipt of this order. It will be open for the appellant to produce certified copy of this order before the learned Commissioner for Workmen Compensation, Ahmedabad. With these, present appeal is disposed of. Direct service is permitted.

[M.R.Shah, J.]

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